

REMARKS

Claims 1-44 were presented for examination. Claims 1-44 were rejected. Claim 2 has been cancelled from consideration.

Amended claims 1, 23, and 36 add no new matter as support for amended claims 1, 23, and 36 can be found in the original specification in paragraphs [0008] and [0019].

Claims 3 and 5-6 have been amended to correct dependency in light of the cancellation of claim 2.

Applicants respectfully request entry of the amendments.

1. **Rejection of claim 42 under 35 U.S.C. §112**

Claim 42 stands rejected under 35 U.S.C. §112. Claim 42 has been amended to delete the use of the word “about” in the rejected phrase “more than about 0 wt.%.” Reconsideration and removal of the rejection is respectfully requested.

2. **Rejection of claims 1-35 under 35 U.S.C. §102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mitra et al., U.S. 6,673,761, hereafter “Mitra” or “761.”**

Claims 1-35 have been rejected as being anticipated by, or, in the alternative, obvious over Mitra et al. Applicants respectfully traverse these rejections.

To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988). While the prior art reference need not use identical terminology, the reference must “sufficiently describe the claimed invention to have placed the public in possession of it.” *Minnesota Mining & Mfg. Co. v Johnson & Johnson Orthopedics, Inc.*, 24 U.S.P.Q.2d 1321, 1332 (Fed. Cir.1992).

Mitra fails to meet this standard. Specifically, Mitra fails to describe the cleaning formulation of Applicants’ amended claims 1 and 23. The presently claimed formulation is directed to a cleaning formulation comprising a brake dust barrier composition in sufficient amount to provide brake dust efficacy and substantially prevent at least one of build-up and adherence of brake dust on a surface. Applicants’ amended claims 1 and 23 requires the claimed

cleaning formulation to include a brake dust barrier composition present in an amount ranging between about 0.1wt.% and about 5 wt.%; wherein the brake dust barrier composition comprises at least one of film forming compounds, fluorinated compounds, and mixtures thereof.

In contrast, Mitra is silent as to a brake dust barrier composition. Mitra is directed to a disinfecting cleaning wipe comprising a biocide and a biocide release agent to increase the amount of biocide released from the cleaning wipe onto the surface to be disinfected. While Mitra does disclose the optional use of polystyrenesulfonates and in particular, Versa TL-4 and Versa TL501, it is silent as to any required amount. Thus, Mitra cannot be said to be anticipatory as it fails to disclose all the material elements of Applicants' amended claims 1 and 23.

Claims 1-35 were also rejected in the alterative as being obvious over Mitra et al. Applicants respectfully traverse the rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness, i.e., that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir.1996).

Mitra fails to satisfy this standard for two reasons. First, Mitra fails to teach or disclose a cleaning formulation comprising a brake dust barrier composition present in an amount ranging between about 0.1wt.% and about 5 wt.%; wherein the brake dust barrier composition comprises at least one of film forming compounds, fluorinated compounds, and mixtures thereof. Second, the cited combination fails to provide a motivation to do what Applicants have done. As a result it is respectfully submitted that Mitra fails to provide a *prima facie* case of obviousness with respect amended independent claims 1 and 23.

As explained above, Applicants' amended claims 1 and 23 require the claimed cleaning formulation to include a brake dust barrier composition present in an amount ranging between

about 0.1wt.% and about 5 wt.%; wherein the brake dust barrier composition comprises at least one of film forming compounds, fluorinated compounds, and mixtures thereof.

In contrast, Mitra is silent as to a brake dust barrier composition. Mitra is directed to a disinfecting cleaning wipe comprising a biocide and a biocide release agent to increase the amount of biocide released from the cleaning wipe onto the surface to be disinfected. While Mitra discloses the optional use of polystyrenesulfonates and in particular, Versa TL-4 and Versa TL501, it is silent as to any required amount. Moreover, Mitra teaches away from the use of film forming and fluorinated compounds. First, Mitra is entirely silent as to the use of fluorinated compounds. Second, Mitra states that an “object of the present invention is to provide an [sic] cleaning composition that exhibits reduced streaking and/or filming.” (‘761, col. 14, lines 38-40). Furthermore, nothing in the specification of Mitra suggests the use of film forming or fluorinated compounds to substantially prevent build-up and/or adherence of brake dust on the wheel surfaces of automobiles. Thus, Mitra fails to teach or suggest all the elements of Applicants’ amended independent claims 1 and 23. Therefore, Applicants’ invention cannot be said to be obvious over Mitra.

Reconsideration and removal of the anticipation and, in the alternative, obviousness rejection with respect to amended independent claims 1 and 23 is respectfully requested. Dependent claims 3-22 and 24-35 are likewise submitted as not anticipated by Mitra, or in the alternative, not obvious over Mitra as these claims incorporate all of the limitations of the amended independent claims 1 and 23.

3. Rejection of claims 1-35 under 35 U.S.C. §102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Oulette et al., U.S. 2004/0244132, hereafter “Oulette” or “132.”

Claims 1-35 stand rejected as anticipated by, or, in the alternative as obvious over Ouellette. Applicants traverse these rejections.

To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988).

Oulette fails to meet this standard. Specifically, Oulette fails to describe the cleaning formulation of Applicants' amended claims 1 and 23. The presently claimed formulation is directed to a cleaning formulation comprising a cleaning composition, wherein water is present in an amount ranging between about 50 wt.% and about 99 wt.% of the cleaning formulation.

In contrast, Oulette teaches that "water is preferably present at a level of less than 50%, more preferably less than about 10%, and most preferably, less than about 5%." ('132, page 12, paragraph [0156]). Thus, Oulette cannot be said to be anticipatory as it fails to disclose all the material elements of Applicants' amended claims 1 and 23.

Claims 1-35 were also rejected in the alternative as being obvious over Oulette. Applicants respectfully traverse the rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness, i.e., that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir.1996).

Oulette fails to satisfy this standard for two reasons. First, Oulette fails to teach or disclose a cleaning formulation comprising a cleaning composition, wherein water is present in an amount ranging between about 50 wt.% and about 99 wt.% of the cleaning formulation. Second, the cited combination fails to provide a motivation to do what Applicants have done. As a result it is respectfully submitted that Oulette fails to provide a *prima facie* case of obviousness with respect to amended independent claims 1 and 23.

As argued above, Applicants' amended claims 1 and 23 require the claimed cleaning formulation to include a cleaning composition, wherein water is present in an amount ranging between about 50 wt.% and about 99 wt.% of the cleaning formulation.

In contrast, Oulette provides that "water is preferably present at a level of less than 50%, more preferably less than about 10%, and most preferably, less than about 5%." ('132, page 12, paragraph [0156]). Moreover, Oulette teaches away from a cleaning composition wherein water

is present at a level between about 50 wt.% and about 99 wt.% of the cleaning formulation. Oulette is directed to a disposable cleaning mitt for use in cleaning a variety of surfaces including automotive interior and exteriors. ('132, page 1, paragraph [0001]). Oulette provides that the mitt optionally contains a treatment composition, which is preferably a solid or gel and melts above 25° C. ('132, page 4, paragraph [0072]). Nothing in the specification of Oulette suggests a cleaning composition wherein water is present at a level between about 50 wt.% and about 99 wt.% of the cleaning formulation. Moreover, none of Oulette's examples provide for water in the cleaning composition. ('132, page 13, paragraph [0162], Table 1). Furthermore, it is noted that a water content higher than about 50 wt.% of the cleaning formation would interfere with the packaging and subsequent use of the Oulette mitt. Thus, Oulette fails to teach or suggest all the elements of Applicants' amended independent claims 1 and 23. Therefore, Applicants' invention cannot be said to be obvious over Oulette.

Reconsideration and removal of the anticipation and, in the alternative, obviousness rejection with respect to amended independent claims 1 and 23 is respectfully requested. Dependent claims 3-22 and 24-35 are likewise submitted as not anticipated by Oulette, or in the alternative, not obvious over Oulette as these claims incorporate all of the limitations of the amended independent claims 1 and 23.

4. Rejection of claims 1-3, 5-7, 10-18 and 20-22 under 35 U.S.C. §102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bragulla, WO 2004/024857, hereafter “Bragulla” or “857.”

Claims 1-3, 5-7, 10-18 and 20-22 stand rejected as being anticipated by Bragulla. Applicants respectfully traverse the rejection.

To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Bariant, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988). While the prior art reference need not use identical terminology, the reference must “sufficiently describe the claimed invention to have placed the public in possession of it.” *Minnesota Mining & Mfg. Co. v Johnson & Johnson Orthopedics, Inc.*, 24 U.S.P.Q.2d 1321, 1332 (Fed. Cir.1992).

Bragulla fails to meet this standard. Specifically, Bragulla fails to describe the cleaning formulation of Applicants' amended independent claim 1. The presently claimed formulation is directed to a cleaning formulation comprising a brake dust barrier composition in sufficient amount to provide brake dust efficacy and substantially prevent at least one of build-up and adherence of brake dust on a surface. Applicants' amended independent claim 1 requires the claimed cleaning formulation to include a brake dust barrier composition present in an amount ranging between about 0.1wt.% and about 5 wt.%; wherein the brake dust barrier composition comprises at least one of film forming compounds, fluorinated compounds, and mixtures thereof.

In contrast, Bragulla is silent as to brake dust barrier compositions, film forming compounds, and fluorinated compounds. Nothing in Bragulla sufficiently describes the claimed invention to place the claimed invention in the possession of the public and one of ordinary skill in the field would clearly distinguish between the claimed invention and the disclosure of Bragulla. Therefore, Bragulla cannot anticipate the present claims.

Claims 1-3, 5-7, 10-18 and 20-22 were also rejected, in the alternative, as being obvious over Bragulla. Applicants respectfully traverse the rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness, i.e., that all elements of the invention are disclosed in the prior art; that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir.1996).

Bragulla fails to satisfy this standard for two reasons. First, Bragulla fails to teach or disclose a cleaning formulation comprising a brake dust barrier composition present in an amount ranging between about 0.1wt.% and about 5 wt.%; wherein the brake dust barrier composition comprises at least one of film forming compounds, fluorinated compounds, and mixtures thereof. Second, the cited combination fails to provide a motivation to do what Applicants have done. As a result it is respectfully submitted that Bragulla fails to provide a *prima facie* case of obviousness with respect amended independent claims 1 and 23.

As argued above, Applicants' amended independent claim 1 requires the claimed cleaning formulation to include a brake dust barrier composition present in an amount ranging between about 0.1wt.% and about 5 wt.%; wherein the brake dust barrier composition comprises at least one of film forming compounds, fluorinated compounds, and mixtures thereof.

In contrast, Bragulla is silent as to brake dust barrier compositions, film forming compounds, and fluorinated compounds. Nothing in the specification of Bragulla teaches or suggests the combination of components claimed to achieve brake dust efficacy. Therefore, the present claims are not obvious over Bragulla.

Reconsideration and removal of the anticipation and, in the alternative, obviousness rejection with respect to amended independent claim 1 is respectfully requested. Dependent claims 3, 5-7, 10-18 and 20-22 are likewise submitted as not anticipated by Bragulla, or in the alternative, not obvious over Bragulla as these claims incorporate all of the limitations of the amended independent claim 1.

5. Rejection of claims 36-44 under 35 U.S.C. 103(a) as obvious over Mitra et al., U.S. 6,673,761, hereafter "Mitra" or "761."

Claims 36-44 stand rejected as being obvious over Mitra. Applicants respectfully traverse the rejection.

Claim 36 has been amended to recite the level of brake dust barrier composition present in the cleaning formulation. Amended independent claim 36 now requires that "the brake dust barrier composition is present in an amount ranging between about 0.1 wt.% and about 5 wt.% and wherein the brake dust barrier composition comprises at least one of film forming compounds, fluorinated, and mixtures thereof."

The foregoing remarks for section 2 are incorporated herein by reference. As noted therein, Mitra fails to (1) teach or disclose a cleaning formulation comprising a brake dust barrier composition present in an amount ranging between about 0.1wt.% and about 5 wt.%; wherein the brake dust barrier composition comprises at least one of film forming compounds, fluorinated compounds, and mixtures thereof, and (2) provide a motivation to do what Applicants have done. As a result it is respectfully submitted that Mitra fails to provide a prima facie case of obviousness with respect amended independent claim 36.

Reconsideration and removal of the obviousness rejection with respect to amended independent claim 36 is respectfully requested. Dependent claims 37-44 are likewise submitted as not obvious over Mitra as these claims incorporate all of the limitations of the amended independent claim 36.

6. Rejection of claims 36-44 under 35 U.S.C. 103(a) as obvious over Oulette et al., U.S. 2004/0244132, hereafter “Oulette” or “132.”

Claims 36-44 stand rejected as being obvious over Oulette. Applicants respectfully traverse the rejection.

Claim 36 has been amended to recite the level of water present in the cleaning formulation. Amended independent claim 36 now requires that “water is present in an amount ranging between about 50 wt.% and about 99 wt.% of the cleaning formulation.”

The foregoing remarks for section 2 are incorporated herein by reference. As noted therein, Oulette fails to (1) teach or disclose a cleaning formulation comprising a cleaning composition, wherein water is present in an amount ranging between about 50 wt.% and about 99 wt.% of the cleaning formulation, and (2) fails to provide a motivation to do what Applicants have done. As a result it is respectfully submitted that Oulette fails to provide a prima facie case of obviousness with respect to amended independent claim 36.

Reconsideration and removal of the obviousness rejection with respect to amended independent claim 36 is respectfully requested. Dependent claims 37-44 are likewise submitted as not anticipated by Oulette, or in the alternative, not obvious over Oulette as these claims incorporate all of the limitations of the amended independent claim 36.

CONCLUSION

In view of the above amendments and the discussion relating thereto, it is respectfully submitted that the present application is in condition for allowance. Such action is most earnestly solicited. If for any reason the Examiner feels that consultation with Applicants’ attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below for an interview.

If there are any charges due with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130, maintained by the applicant's attorney.

Respectfully submitted,

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